PROB 12C
(04/08)

March 6, 2013

FILED
2013 MAR 12 AM 10:55
CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY ______ DEPUTY

**UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF CALIFORNIA**

**Petition for Warrant or Summons for Offender Under Supervision**

**Name of Offender:** Jesus Gonzalez (English) **Dkt No.:** 11CR02164-002-AJB

**Reg. No.:** 25619-298

**Name of Sentencing Judicial Officer:** The Honorable Anthony J. Battaglia, U.S. District Judge

**Original Offense:** 21 U.S.C. §§ 952 and 960, and 18 U.S.C. § 2, Importation of Marijuana and Aiding and Abetting, a Class D felony

**Date of Sentence:** August 26, 2011

**Sentence:** Time served; two years supervised release *(Special Conditions: Refer to Judgment and Commitment Order.)*

**Type of Supervision:** Supervised Release **Date Supervision Commenced:** August 26, 2011

**Asst. U.S. Atty.:** Emily J. Keifer **Defense Counsel:** Michael Mccabe (Appointed) 619-231-1181

**Prior Violation History:** None.

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**PETITIONING THE COURT**

**TO ISSUE A NO-BAIL BENCH WARRANT**

The probation officer believes that the offender has violated the following condition(s) of supervision:

| CONDITION(S) | ALLEGATION(S) OF NONCOMPLIANCE |
|---|---|
| **(Standard Condition)** Notify the probation officer ten days prior to any change of residence or employment. *(nv11)* | 1. On or about January 15, 2013, Mr. Jesus Gonzalez changed his place of residence without notifying the probation officer, and his current whereabouts are unknown. |

***Grounds for Revocation:*** I have received and reviewed a letter from the supervising U.S. Probation Officer in the Northern District of California who stated that he attempted to make contact with the offender on his cellular telephone and in person at his residence on the above date. The cellular number had been disconnected and no one answered the door at his residence. He left a business card on the front door of the residence with a hand-written note on the back of the card instructing the offender to call the officer and provide his new number.

On February 2, 2013 the officer attempted telephone contact with the offender's employer. The man answering the telephone stated there was no one there by the name requested. The officer emailed the offender at the email address he had provided to no avail. On February 11, 2013 the officer made contact with the offender's roommate who stated she believed the offender went to Los Angeles when he moved out the week of January 20, 2013. The officer contacted Mr. Gonzalez previous supervision officer in the Central District of California who advised he had not heard from the offender. The last physical contact with the offender was in the office on December 10, 2012 and his current whereabouts are unknown.

## VIOLATION SENTENCING SUMMARY

### SUPERVISION ADJUSTMENT

Mr. Gonzalez has never been supervised in this district. Prior to absconding from supervision, he was employed as a driver for an individual in San Jose, California. At that time he was in compliance with the remaining conditions of supervision.

### OFFENDER PERSONAL HISTORY/CHARACTERISTICS

According to the PSR, medical records reflected that the offender reportedly has a hard time hearing, and suffers some hearing loss due to ear problems as a child. Additionally, Mr. Gonzalez has a lengthy mental health history which involves the following: According to various psychological and educational reports dating back to 2002, Mr. Gonzalez had consistently appeared hyperactive and fidgety, and displayed difficulty in following instructions and reportedly demonstrated difficulty in controlling his anger, especially when negative comments were made toward him by his peers, and he acted out in aggression. On May 2, 2003, at age 12, the offender made comments that he was going to commit suicide, and his aunt had him committed to Kedren Acute Psychiatric Hospital for 11 days.

It was reported that Mr. Gonzalez participated in out-patient psychiatric evaluations and psychotherapy at Child and Family Guidance Center, and was also under psychiatric care from 2003 to 2004. It was self-reported that the offender witnessed a drive-by gang shooting, and the experience of observing that also coincided with some behavioral issues. Mr. Gonzalez was diagnosed with major Depressive Disorder with Psychotic Features. The offender refused to consistently take his medications, which inhibited his ability to control his moods.

The offender reportedly graduated from Arleta High School in 2009 (un-verified). Mr. Gonzalez listed specialized skills in construction, landscaping and mechanics.

### SENTENCING OPTIONS

### CUSTODY

**Statutory Provisions:** Upon the finding of a violation, the court may modify the conditions of supervision; extend the term (if less than the maximum authorized term was previously imposed); or revoke the term of supervised release. 18 U.S.C. § 3583(e)(2) and (3).

If the court revokes supervised release, the maximum term of imprisonment upon revocation is 2 years. 18 U.S.C. § 3583(e)(3).

**USSG Provisions**: USSG § 7B1.1(b), p.s., indicates that where there is more than one violation of the conditions of supervision, or the violation includes conduct that constitutes more than one offense, the grade of the violation is determined by the violation having the most serious grade. In this case the most serious conduct involves failure to notify the probation officer of new address which constitutes a Grade C violation. USSG § 7B1.1(a)(3), p.s.

Upon a finding of a Grade C violation the court shall revoke supervised release. USSG § 7B1.3(a)(3), p.s.

A Grade A violation with a Criminal History Category I (determined at the time of sentencing) establishes an **imprisonment range of 3 to 9 months.** USSG § 7B1.4, p.s.

## REIMPOSITION OF SUPERVISED RELEASE

If supervised release is revoked and the offender is required to serve a term of imprisonment, the court can reimpose supervised release upon release from custody. The length of such a term shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment imposed upon revocation. 18 U.S.C.§ 3583(h).

In this case, the court has the authority to reimpose a term of 3 year(s) supervised release, less any term of imprisonment imposed upon revocation. 18 U.S.C. § 3583(b).

## JUSTIFICATION FOR BENCH WARRANT

Mr. Gonzalez has absconded from supervision and his whereabouts are unknown.

## RECOMMENDATION/JUSTIFICATION

It appears that Mr. Gonzalez has suffered a very difficult life up to this point. Not only did he have to deal with the death of his parents at a young age, but then suffered various psychiatric problems and was eventually diagnosed with major Depressive Disorder with Psychotic Features. It is noted that the offender refused to consistently take his medications, which inhibited his ability to control his moods.

It is the first time since the onset of supervision that the court has been advised of violation conduct by Mr. Gonzalez. He has absconded from supervision, and may very well be un-medicated with psychiatric problems which may cause danger to himself and others. The undersigned believes that a sanction is appropriate at this time to gain this young offenders attention and allow him to refocus his efforts on future compliance.

If the Order to Show Cause is sustained, it is respectfully recommended that supervised release be revoked and he be sentenced to the low end of the range, three months, to be followed by 24 months of supervised release under the same terms and conditions as previously ordered with a modification to include a mental health condition to properly monitor and supervise the offender.

**I declare under penalty of perjury that the foregoing is true and correct.**

**Executed on: March 6, 2013**

Respectfully submitted:
DAVID J. SULTZBAUGH
CHIEF PROBATION OFFICER

by ______________________
Lisa M. Bishop
Sr. U.S. Probation Officer
(619) 557-5709

Reviewed and approved:

______________________
Sean Quintal
Supervising U.S. Probation Officer

PROB12CW March 6, 2013

# VIOLATION SENTENCING SUMMARY

1. **Defendant:** Gonzalez, Jesus

2. **Docket No.** (Year-Sequence-Defendant No.): 11CR02164-001-AJB

3. **List Each Violation and Determine the Applicable Grade** (*See* USSG § 7B1.1):

| Violation(s) | Grade |
|---|---|
| failed to notify PO of new address | C |
| | |
| | |
| | |
| | |
| | |
| | |
| | |

4. **Most Serious Grade of Violation** (*See* USSG § 7B1.1(b)) [ C ]

5. **Criminal History Category** (*See* USSG § 7B1.4(a)) [ I ]

6. **Range of Imprisonment** (*See* USSG § 7B1.4(a)) [ 3 to 9 months ]

7. **Unsatisfied Conditions of Original Sentence**: List any restitution, fine, community confinement, home detention, or intermittent confinement previously imposed in connection with the sentence for which revocation is ordered that remains unpaid or unserved at the time of revocation (*See* USSG § 7B1.3(d)):

| | | | |
|---|---|---|---|
| Restitution ($) | | Community Confinement | |
| Fine($) | | Home Detention | |
| Other | | Intermittent Confinement | |

**THE COURT ORDERS:**

__✓__ A NO-BAIL BENCH WARRANT BE ISSUED BASED UPON A FINDING OF PROBABLE CAUSE TO BRING THE OFFENDER BEFORE THE COURT TO SHOW CAUSE WHY SUPERVISED RELEASE SHOULD NOT BE REVOKED FOR THE ALLEGED VIOLATIONS.

______ THE ISSUANCE OF A SUMMONS ORDERING THE OFFENDER TO APPEAR BEFORE THE COURT ON AT, TO SHOW CAUSE WHY SUPERVISED RELEASE SHOULD NOT BE REVOKED.

______ Other ________________________________________

The Honorable Anthony J Battaglia
U.S. District Judge

Date 3/11/13